

# **NRCS General Manual, Title 450 Technology**

## **Part 405 - Federal, State and Local Laws and Regulations**

### **Subpart A - Compliance with Laws and Regulations**

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#### **Part Purpose**

##### **405.0**

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This subpart sets forth Natural Resources Conservation Service (NRCS) policy on technical assistance to land owners and operators in planning, constructing, operating, and maintaining conservation practices that are subject to Federal, State, and local laws and regulations. It applies to work in connection with assistance to conservation districts, the Agricultural Conservation Program, the Great Plains Conservation Program, Emergency Watershed Protection work (Section 216 of the Flood Control Act of 1950), and similar programs. It does not apply to work in P.L. 566, RC&D, FP, and the pilot watershed projects.

#### **Part Land Owners or Operators Responsibility**

##### **405.1**

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Land owners or operators are responsible for acquiring water rights, obtaining approval of construction plans from Federal, State, or local agencies, obtaining related permits, obtaining Federal or State permits required by the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) or State regulations, notifying adjoining landowners affected by the work, obtaining any required property rights, making inspections and carrying out required maintenance, and applying and operating conservation practices in accordance with applicable laws, rules, and regulations. NRCS employees are not to assume responsibility for procuring these permits, rights, or approvals or for enforcing laws and regulations.

#### **Part NRCS Responsibility**

##### **405.2**

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- a. NRCS employees must have enough knowledge of Federal, State, or local laws and regulations to

1. Recognize that a contemplated facility or practice may be subject to such laws and regulations.
  2. Provide the land owner or operator with the name and address of the agency or official from whom application forms and detailed information can be obtained.
- b. In furnishing technical assistance for planning or constructing a conservation practice that may be subject to the requirements of Federal, State, or local laws and regulations, NRCS policy is to
1. Inform the land owner or operator in writing or verbally that it is his or her responsibility to comply with applicable laws and regulations in constructing and using the facility. File a copy of the written notice or document the verbal notice in the NRCS case file.
  2. Design conservation practices that meet land owner or operator needs, NRCS standards, and the requirements of applicable laws and regulations.
  3. Furnish the land owner or operator, on request, any available information needed to obtain rights, permits, or approvals necessary to construct, operate, and maintain the practice. This includes surveys, maps, technical data, and construction plans and specifications prepared by NRCS employees during the development of the conservation plan or overall waste or water management plan or during the planning and design of conservation practices.
  4. Provide further technical assistance only after the land owner or operator obtains required rights, permits, or approvals necessary to construct, operate, maintain, and apply (i) practices requiring rights or permits under water rights laws, the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500), and dam safety laws or regulations, or (ii) cost-shared practices. The state conservationist may include other items important in the State.

## **Part NRCS Guidance Material**

### **405.3**

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Each state conservationist is to provide guidance for technical assistance in accordance with Federal and State laws and regulations to meet the needs of the State. Guidance material prepared at field offices must reflect the requirements of local laws and regulations. This material should be prepared in collaboration with the official or agencies responsible for administering the laws

and regulations and should include the following information:

- a. The general requirements of the laws and regulations.
- b. The kinds of information and assistance NRCS can furnish to land owners and operators in connection with their applications for permits or approvals.
- c. Procedures for ascertaining that the land owner or operator has obtained required permits.